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Mojica, Bender, Del Villar, Neotti, Hatton, Mantel,  
10 Thomas, Moore, Lewis, Jansen, Kessler, Santos,  
Medina, Galloway, Kuzmich, Hughes, Clark, Parin,  
11 Johnson, Evans, Best, Jones, Lopez, Torrez, Esser,  
Boucher, Boccella, Variz, Rankin, Williams, Teat and  
12 Hogan

13  
14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 **ARMAND FLOREZ,**

18 Plaintiff,

19 v.

20 **ARNOLD SCHWARZENEGGER, et al.,**

21 Defendants.  
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C 07-5763 TEH

**NOTICE REGARDING  
PLAINTIFF'S FAILURE TO FILE  
A TIMELY OPPOSITION TO  
DEFENDANTS' MOTION TO  
DISMISS**

1 Defendants Morrison, Grannis, Gilmore, Mojica, Bender, Del Villar, Neotti, Hatton,  
 2 Mantel, Thomas, Moore, Lewis, Jansen, Kessler, Santos, Medina, Galloway, Kuzmich, Hughes,  
 3 Clark, Parin, Johnson, Evans, Best, Jones, Lopez, Torrez, Esser, Boucher, Boccella, Variz,  
 4 Rankin, Williams, Teat and Hogan (Defendants) submit their Notice Regarding Plaintiff's  
 5 Failure to File a Timely Opposition to Defendants' Motion to Dismiss.

# I.

## INTRODUCTION AND ARGUMENT

8 On June 27, 2008, Defendants moved this Court for an order of dismissal in connection  
 9 with Plaintiff's "Complaint Under the Civil Rights Act, 42 U.S.C. § 1983" under (1) Rule 8(a) of  
 10 the Federal Rules of Civil Procedure (FRCP) on the ground that Plaintiff failed to set forth a  
 11 short and plain statement of the claim showing that he is entitled to relief; (2) Rule 12(b)(6) of  
 12 the FRCP on the ground that Plaintiff failed to state a claim upon which relief can be granted; (3)  
 13 Rule 18(a) of the FRCP on the ground that Plaintiff improperly asserted unrelated claims against  
 14 different Defendants; and (4) Rule 20(a) of the FRCP on the ground that Plaintiff failed to allege  
 15 that Defendants participated in the same transaction or series of transactions or to allege that  
 16 there is a question of fact that is common to all Defendants.

17 This Court's Order of Service provided that Plaintiff's opposition to the dispositive motion  
 18 "shall be filed with the Court and served on Defendants no later than **thirty (30) days** from the  
 19 date Defendants' motion is filed" (emphasis in original). The Order of Service further advised  
 20 Plaintiff that the failure to comply with the Court's orders in a timely fashion could result in the  
 21 dismissal of the action.

22 Plaintiff's opposition to the motion to dismiss was due on July 28, 2008. Although more  
 23 than a week has passed since the July 28 filing deadline, Plaintiff has not submitted an opposition  
 24 to the motion.

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1 Despite being provided with ample time by this Court, Plaintiff has failed to provide any  
2 response to Defendants' motion. Accordingly, Defendants respectfully request that Plaintiff's  
3 Complaint be dismissed with prejudice.

4 Dated: August 7, 2008

5 Respectfully submitted,

6 EDMUND G. BROWN JR.  
Attorney General of the State of California

7 DAVID S. CHANEY  
Chief Assistant Attorney General

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14 Gilmore, Mojica, Bender, Del Villar, Neotti,  
15 Hatton, Mantel, Thomas, Moore, Lewis, Jansen,  
Kessler, Santos, Medina, Galloway, Kuzmicz,  
16 Hughes, Clark, Parin, Johnson, Evans, Best,  
Jones, Lopez, Torrez, Esser, Boucher, Boccella,  
17 Variz, Rankin, Williams, Teat and Hogan

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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **A. Florez v. A. Schwarzenegger, et al.**

No.: **C 07-5763 TEH**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **August 7, 2008**, I served the attached

**NOTICE REGARDING PLAINTIFF'S FAILURE TO FILE A  
TIMELY OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Armand Florez, K-63387  
P. O. Box 2022  
North Hills, CA 91343-2022**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **August 7, 2008**, at San Francisco, California.

\_\_\_\_\_  
M.M. Argarin

Declarant

\_\_\_\_\_  
*M.M. Argarin*

Signature